

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

BRENT WEBSTER,

Case No. 3:14-cv-00652-AC

Plaintiff,

FINDINGS AND RECOMMENDATION

v.

ARAMARK CORRECTIONAL SERVICES,  
et al.,

Defendants.

ACOSTA, Magistrate Judge.

Plaintiff brings this civil action *pro se*. On December 23, 2014, District Judge Marco A. Hernandez issued an Order adopting the Findings and Recommendation issued by this Court on November 11, 2014. By the terms of the December 23, 2014, Order, Plaintiff Webster Technologies, Inc. was dismissed and all claims against Defendants Aramark, Foss, Cannon, Cochran, Brady, Corvel, Taylor, Hoesley, Marcus, and Gibbs were dismissed. The claims were dismissed with prejudice, with the exception of the breach of contract claim, which was dismissed without prejudice. The Order also noted that all lawsuits filed by Plaintiff in the District of Oregon

are subject to a pre-filing Order issued by Chief District Judge Ann Aiken in *In Re Webster, In re Kelly*, Case No. 3:11-mc-09266.

On January 8, 2015, this Court issued an order allowing Plaintiff to submit for pre-filing review a proposed Amended Complaint stating his claims (1) for breach of contract against all Defendants and (2) all claims he may have against Multnomah County, Sergeant Hasse, and Sergeant Moore. The Order advised Plaintiff the Court would review the proposed amended complaint for frivolity before accepting or filing it.

On February 20, 2015, Plaintiff submitted documents to the Court which, pursuant to the terms of the pre-filing Order referenced above, were not entered in the Court docket. On February 23, 2015, this Court issued a Findings and Recommendation addressing documents entitled "Order for Discovery" and "Depositions of PPO Ronald Hoesley," copies of which were attached to the Findings and Recommendation. The Court found the documents addressed in and attached to the Findings and Recommendation failed to pass scrutiny under Judge Aiken's pre-filing Order because they were almost incomprehensible, at least "frivolous and repetitive," and untimely. Due to a clerical error, however, an additional document previously submitted by Plaintiff entitled "Verified Second Amended Complaint" was not addressed in or attached to the February 23, 2015, Findings and Recommendation.

Plaintiff notified the Court of the clerical error pertaining to the submitted proposed Second Amended Complaint. On March 9, 2015, this Court issued an Order granting Plaintiff until March 16, 2015, to submit for pre-filing review an exact copy of the proposed Second Amended Complaint which was initially delivered to the Court.

Currently before the Court is a document submitted by Plaintiff on March 16, 2015, entitled "Order to Show Cause," which has attached thereto a "Verified Second Amended Complaint" bearing a "received" stamp from the Clerk of the Court indicating it was submitted to the Court on February 9, 2015. A copy of the entire document is attached hereto as Exhibit A.

Upon review, Plaintiff's proposed Verified Second Amended Complaint fails to comply with the terms of the Court's January 8, 2015, Order. Although Plaintiff titles the proposed Amended Complaint "Breach of Contract," in fact he does not allege any such claim. Plaintiff instead alleges claims of false arrest, malicious prosecution, personal injuries, retaliation, unlawful strip search, conspiracy, negligence, and abuse of process. Moreover, Plaintiff continues to allege these claims against the Defendants who were previously dismissed with prejudice, and makes only conclusory allegations against Defendants Multnomah County, Sergeant Hasse, and Sergeant Moore.

Because Plaintiff's proposed Verified Second Amended Complaint fails to comply with the terms of the January 8, 2015, Order, and because the Court finds the claims alleged in the proposed Verified Second Amended Complaint are frivolous and repetitive, Plaintiff's proposed Verified Second Amended Complaint should not be filed and no further action should be taken thereon in accordance with Judge Aiken's pre-filing Order.

### **RECOMMENDATION**

For these reasons, the Court recommends that Plaintiff's March 16, 2015, filing which attached hereto as Exhibit A be rejected for filing pursuant to Judge Aiken's November 2, 2011, pre-filing order. The Court further recommends that this action be DISMISSED. The dismissal


should be WITH PREJUDICE, with the exception of the breach of contract claim, which should be WITHOUT PREJUDICE.

**SCHEDULING ORDER**

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due April 15, 2015. If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, a response to the objections is due fourteen days after the date the objections are filed and the review of the Findings and Recommendation will go under advisement on that date.

IT IS SO ORDERED.

DATED this 15<sup>th</sup> day of April, 2015.



John V. Acosta  
United States Magistrate Judge